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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,691	07/19/2006	Gundula Czyzewski	2004P00095WOUS	8190

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BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER
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PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1792

MAIL DATE	DELIVERY MODE
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05/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/586,691	<b>Applicant(s)</b> CZYZEWSKI ET AL.	
	<b>Examiner</b> Joseph L. Perrin, Ph.D.	<b>Art Unit</b> 1792	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20081110; 20060719</u> .                                      | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 9-12, 17-19 & 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-325688 to KITAMURA et al. ("KITAMURA"; cited by Applicant; electronic translation cited by Examiner) in combination with U.S. Patent No. 6,463,767 to UZKUREIT et al. ("UZKUREIT"; cited by Applicant). Regarding claim 9, KITAMURA discloses a front-loading washing machine with a housing (1), a liquid container/tub (4) disposed within the housing, and rotating drum (5) in the tub whose cylindrical drum shell has flow perforations (5A) capable of exchanging fluids between its interior and the interior of tub (4) surrounding the drum and whose lowest shell line in the operating position differs from a horizontal, ascending towards the front (i.e. slanted or inclined) wherein the front region of the drum which measures about a quarter or about a third of the total depth of the drum has a total area of perforations reduced by at least 50% compared with the drum rear region (see entire document, for instance, the abstract, Figures 2, 3, 5, 6, 7 and relative associated text, particularly paragraphs [0018], [0020], [0056], [0058], [0064] & [0065]). Regarding claims 10-11, 19 & 22, KITAMURA further discloses the front region of the drum having no flow perforations (see Figure 2) and the front region having the same size but fewer flow perforations (see Figures 2 & 6). Regarding claim 24, KITAMURA further discloses the carriers having a curved shape extending between the front and rear ends forming a convex flank and concave flank with the percentage of the convex flank being covered with outlet openings being greater than the percentage of the concave flank being covered with outlet openings (see Figures 1-5 and relative associated text). KITAMURA teaches the washing machine structure as claimed with the exception of hollow elongated carriers. UZKUREIT teaches that it is known to provide a front-loading washing

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machine with inclined rotating drum with plural hollow elongated carriers (12) extending along the drum between the rear end and the front end which are configured to take up quantities of liquid from their lowest position via inlets (14) and raise the liquid as the drum rotates and release the liquid from a raised position via outlets (16) into the interior of the drum for the purpose of thoroughly and rapid wetting laundry to effect an improved washing action.

All of the component parts are known in KITAMURA and UZKUREIT. The only difference is the combination of "old elements" into a single washing machine by combining the hollow elongated carriers of UZKUREIT with the washing machine drum of KITAMURA.

Thus, it would have been obvious to one having ordinary skill in the art to mount the hollow elongated carriers taught by UZKUREIT onto the drum interior as shown in KITAMURA, since the hollow elongated carriers could be used in combination with a standard inclined front loading washing machine to achieve the predictable results of thoroughly and rapidly wetting laundry to effect improved washing action. Moreover, there would be a reasonable expectation of success in combining KITAMURA and UZKUREIT, since each of the references are analogous to the washing machine art (note that both are inclined front loading washing machines).

Regarding claims 12 & 23, KITAMURA clearly discloses the concept of having more perforations at the bottom rear of the drum compared to the top front of the drum as indicated above but does not disclose the drum having smaller diameter perforations in the front compared to the rear. Given the fact that such configuration would provide the same predictable result of increasing flow perforations at the rear of the drum, such

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reconfiguration is considered a structural equivalent and obvious variant, and absent evidence of unexpected or unpredictable results, such configuration is *prima facie* obvious. Thus, since the change in size/shape of the perforations would produce predictable results the position is taken that such modification is *prima facie* obvious since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). If applicant disagrees, applicant should provide sufficient evidence of unexpected results or unpredictability as the modification appears to produce the same predictable result as the other configurations and is considered *prima facie* obvious.

5. Claims 13-16 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over KITAMURA and UZKUREIT as applied to claims 9-10 and 17-19 respectively above, and further in view of U.S. Patent No. 2,637,189 to DOUGLAS. KITAMURA and UZKUREIT, *supra*, disclose the claimed invention with the exception of embossed grooves pointing towards the draining openings of the drum. DOUGLAS teaches that it is known to provide a non-perforated drum portion with embossed grooves (148) for the purpose of guiding water to the exit ports of the drum to drain during a spinning operation of the drum (see Figures 2-4 and relative associated text).

Thus, it would have been obvious to one having ordinary skill in the art to provide the non-perforated washing machine drum portion of the combination of KITAMURA and UZKUREIT with the draining grooves of DOUGLAS, since the draining grooves could be used in combination with a standard inclined front loading washing machine drum having

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a non-perforated portion to achieve the predictable results of thoroughly draining washing fluid from the interior of the drum during a spinning operation. Moreover, there would be a reasonable expectation of success in combining KITAMURA, UZKUREIT and DOUGLAS, since each of the references are analogous to the washing machine art.

Regarding the shape of the grooves, since each of the claimed shapes of grooves appears to result in the same predictable result, the change of shape of the groove to achieve the same predictable result of draining water from the non-perforated drum portion during a spinning operation is *prima facie* obvious, since such a modification would have involved a mere change in the form or shape of a component. A change in form or shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976). If applicant disagrees, applicant should provide sufficient evidence of unexpected results or unpredictability as the modification appears to produce the same predictable result as the other configurations and is considered *prima facie* obvious.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 2,391,634 to LEWIS et al., which discloses a washing machine with more drum perforations in the rear than in the front.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.

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8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/  
Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1792

JLP